

Serial No.: 09/533,342

### **REMARKS**

Claims 1-24 remain pending in the application. Favorable reconsideration of the application is respectfully requested.

Applicant wishes to thank the Examiner for the continued careful examination of the application despite the delays caused by the loss of the file at the USPTO.

#### ***I. ALLOWABLE SUBJECT MATER***

Applicant again acknowledges with appreciation the allowance of claims 1-20 and the indicated allowability of claims 23 and 24, subject to being amended to independent form.

#### ***II. REJECTION OF CLAIMS 21-22 UNDER 35 USC §103(a)***

Claims 21-22 now stand rejected under 35 USC §103(a) based on *Kim* (previously applied) in view of *Tzukerman et al.* (newly cited). This rejection is respectfully traversed for at least the following reasons.

As previously pointed out, claim 21 relates to a network receiver for receiving a modulated carrier signal from another network transceiver via a network medium. The network receiver includes, among other things, a selection circuit for analyzing the carrier signal and automatically identifying whether the carrier signal is modulated in accordance with a first modulation method or a second modulation method. The selection circuit provides a gain control signal to the input amplifier to amplify the carrier signal with either a first amplifier gain setting or a second amplifier gain setting based on the modulation method identified by the selection circuit.

The Examiner again admits that *Kim* does not teach automatically adjusting the amplifier gain setting based on the identification of whether the carrier signal is modulated in accordance with a first modulation method or a second modulation method. However, the Examiner contends that *Tzukerman et al.* makes up for such deficiencies in *Kim* and that it would have been obvious to one of ordinary skill to modify

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*Kim* based on *Tzukerman et al.* so as to result in the claimed invention. Applicant must respectfully disagree.

Firstly, *Tzukerman et al.* does not teach or suggest automatically adjusting the amplifier gain setting for amplifying a modulated carrier signal received from another network transceiver. *Tzukerman et al.* teaches selecting gain values corresponding to the modulation type of a signal to be transmitted. In other words, *Tzukerman et al.* relates to automatic power control in a data transmitter, and not to a data receiver as in the present invention.

Thus, the Examiner's reliance on *Tzukerman et al.* as providing the appropriate motivation for the modifications proposed by the Examiner is misplaced. Specifically, the Examiner relies on *Tzukerman et al.* as providing the motivation because of the desire to maintain average constant power levels. However, what *Tzukerman et al.* specifically teaches is "the gain values are selected to maintain substantially constant average transmission power level among all the blocks of data". (Col. 2, Ins. 35-37, *emphasis added*).

*Kim* describes an automatic gain control (AGC) circuit for a high definition television (HDTV) receiver. *Kim* teaches selecting a first gain controller 214 or a second gain controller 225 based on whether a segment synchronizing signal is correctly detected. In other words, the HDTV receiver in *Kim* is in no way whatsoever concerned with maintaining a substantially constant average transmission power level among all the blocks of data. Thus, the teachings of *Tzukerman et al.* insofar as the desire to maintain substantially constant average transmission power levels among the blocks of data provide no motivation for the combination proposed by the Examiner.<sup>1</sup>

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<sup>1</sup>In particular, *Tzukerman et al.* teaches the need to maintain substantially constant average transmission power level among all blocks in order to comply with RF Interface Specification regulations. As noted at Col. 2, lines 4-11, conventional cable modems that use multiple modulation techniques produce an average power level that varies as the modulation technique changes from burst to burst. Therefore, conventional cable modems that use multiple modulation techniques for upstream

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Accordingly, the Examiner has not shown any proper motivation for the combination proposed by the Examiner. The rejection therefore must be withdrawn.

Secondly, *Kim*, as previously noted, relates to an automatic gain control circuit in which a first gain controller 214 or a second gain controller 225 is selected based on whether a segment synchronizing signal is correctly detected. Each of the claims included in *Kim* recite the importance of controlling the gain in the AGC circuit based on whether the segment synchronizing signal is correctly detected. (See, e.g., claims 1, 9, 13 and 26).

The Examiner proposes modifying the circuit in *Kim* to select gain based on the modulation technique rather than whether a segment synchronizing signal is correctly detected. Of course, such a modification would defeat the primary purpose/inventive element taught in *Kim*, namely controlling the gain in the AGC circuit based on whether the segment synchronizing signal is correctly detected.

It is well settled that it would not be obvious to modify the teachings of a reference (e.g., *Kim*) in a manner which would be contrary or defeat the primary purpose of the reference. Thus, applicant respectfully submits that those having ordinary skill in the art would not have found it obvious to modify the teachings of *Kim* to base the selection of the gain of the AGC circuit on the identification of the modulation method of the received signal instead of whether the segment synchronizing signal is correctly detected. Such a modification would fly directly in the face of the principal teachings of *Kim*.

Accordingly, *Kim* teaches directly away from the modification proposed by the Examiner.

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communication inherently violate the RF Interface Specification. Accordingly, the cable modem in *Tzukerman et al.* specifically strives to maintain a substantially constant average transmission power level among all the blocks of data.

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For at least the above reasons, applicant respectfully submits that the Examiner has provided no motivation for the proposed combination of *Kim* and *Tzukerman et al.* Moreover, applicant respectfully submits that the proposed combination would not be obvious as it is directly contrary and defeats the express purpose of the teachings of *Kim*. In view of the above, applicant respectfully requests withdrawal of the rejection of claims 21 and 22.

### **III. CONCLUSION**

Accordingly, all claims 1-24 are believed to be allowable and the application is believed to be in condition for allowance. A prompt action to such end is earnestly solicited.

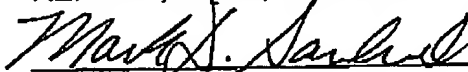
Should the Examiner feel that a telephone interview would be helpful to facilitate favorable prosecution of the above-identified application, the Examiner is invited to contact the undersigned at the telephone number provided below.

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Should a petition for an extension of time be necessary for the timely reply to the outstanding Office Action (or if such a petition has been made and an additional extension is necessary), petition is hereby made and the Commissioner is authorized to charge any fees (including additional claim fees) to Deposit Account No. 18-0988.

Respectfully submitted,

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Reg. No. 34,243

DATE: December 28, 2005

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